

CLASS ACTION SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action Settlement Agreement (“Agreement”) is made by and between plaintiff Daniel Aranda (“Plaintiff”) and defendant OVIS LLC (“OVIS” or “Defendant”). The Agreement refers to Plaintiff and OVIS collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against OVIS captioned *Aranda v. OVIS LLC* (Ventura Co. Sup. Ct. Case No. 56-2021-00550182-CU-OE-VTA), initiated on February 2, 2021, and pending in Superior Court of the State of California, County of Ventura.

1.2. “Administrator” means ILYM Group, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.4. “Aggrieved Employee” consists of all non-exempt employees who were employed by Defendant in the State of California at any time during the PAGA Period.

1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in OVIS’s possession, including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

1.6. “Class” means all non-exempt employees who were employed by OVIS in the State of California at any time during the Class Period (defined as February 21, 2017, through August 1, 2023) (“Class Members”).

1.7. “Class Counsel” means Bradley/Grombacher LLP.

1.8. “Class Counsel Fees Payment” means the amount allocated to Class Counsel for reimbursement of reasonable attorneys’ fees incurred to prosecute the Action.

1.9. “Class Counsel Litigation Expenses Payment” means the amount allocated to Class

Counsel for reimbursement of reasonable expenses incurred to prosecute the Action, as evidenced by documentation and evidence submitted by Class Counsel verifying the nature and amount of each such expense. The Class Counsel Litigation Expense Payment shall not exceed \$30,000.00.

1.10. "Class Data" means Class Member identifying information in OVIS's possession, including the Class Member's name, last-known mailing address, Social Security number, and number of Class Period Workweeks.

1.11. "Class Member" or "Settlement Class Member" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member.

1.12. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.13. "Class Notice" means the Court Approved Notice of Class Action Settlement And Hearing Date For Final Court Approval, to be mailed to Class Members in English and Spanish in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.14. "Class Period" means the period from February 21, 2017, through August 1, 2023.

1.15. "Class Representative" means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.16. "Class Representative Service Payment" means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.17. "Court" means the Superior Court of California, County of Ventura.

1.18. "OVIS" means named defendant OVIS, LLC.

1.19. "Defense Counsel" means Quarles & Brady LLP.

1.20. "Effective Date" means the date by when both of the following have occurred:

- a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and
- (b) the Judgment is final. The Judgment is final as of the latest

of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.21. "Final Approval" means the Court's order granting final approval of the Settlement.

1.22. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.23. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.24. "Gross Settlement Amount" means Eight Hundred Thousand Dollars (\$800,000.00) which is the total amount OVIS agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator's Expenses.

1.25. "Individual Class Payment" means the Participating Class Member's *pro rata* share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.26. "Individual PAGA Payment" means the Aggrieved Employee's *pro rata* share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.27. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.28. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.29. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the

LWDA under Labor Code section 2699, subd. (i).

1.30. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.31. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.32. “PAGA” means the California Private Attorneys General Act (Labor Code §§ 2698, et seq.).

1.33. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$2,500) and the 75% to LWDA (\$5,000) in settlement of PAGA claims.

1.34. “PAGA Period” means February 21, 2020, through August 1, 2023.

1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. “Plaintiff” means Daniel Aranda, the named plaintiff in the Action.

1.37. “Preliminary Approval Order” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.38. “Proposed Preliminary Approval Order” means the proposed Order Granting Preliminary Approval.

1.39. “Released Class Claims” means the claims being released as described in Paragraph 6.2 below.

1.40. “Released Parties” means: OVIS, HCNI I LLC, Henry Crown and Company S. LLC and its and their present and former parents, owners, affiliates and all of its and their managers, members, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in

concert with any of them.

1.41. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.42. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to Class Members and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.43. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.44. “Workweek” means any week during which a Class Member worked for OVIS for at least one day, during the Class Period.

2. RECITALS.

2.1. On February 2, 2021, Plaintiff commenced this Action by filing a Complaint alleging causes of action against OVIS for: Failure to Pay All Wages; Failure to Furnish an Accurate Itemized Wage Statement upon Payment of Wages in Violation of California Labor Code §226; Failure to Pay All Wages Owed at Termination in Violation of California Labor Code §203; Failure to Reimburse Expenses in Violation of California Labor Code §2802; Failure to Adopt Standards that Minimize Excessive Indoor Heat in Violation of California Labor Code §§ 6720, 226.7; and Violations of California Business & Professions Code §§ 17200, et seq.

2.2. Also on February 2, 2021, Plaintiff provided written notice to the LWDA and by certified mail to Defendant of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

2.3. Defendant filed an answer to the Complaint on March 8, 2021.

2.4. A First Amended Complaint (FAC) adding PAGA penalties was filed on July 12, 2021, and a stipulated Second Amended Complaint was filed on September 3, 2021.

2.5. Defendant filed an answer to the Second Amended Complaint on November 10, 2021.

2.6. OVIS denies the allegations in the Second Amended Complaint, denies any failure to comply with the laws identified in the Second Amended Complaint and denies any and all liability for the causes of action alleged.

2.7. The Parties shall jointly execute a Stipulation and Proposed Order allowing Plaintiff to file a Third Amended Complaint in the form attached hereto as Exhibit ____, which shall include all causes of action contained in the Second Amended Complaint and add new causes of action on behalf of the Class for time-rounding and violations of Labor Code sections 200, 226.7 and 512 relating to the provision of meal and rest breaks. This Agreement, and the Parties' respective duties and obligations under this Agreement, are expressly conditioned upon the Court granting Plaintiff's motion for leave to file the Third Amended Complaint.

2.8. Prior to mediation, Plaintiff obtained, through formal and informal discovery policies, time data, payroll data and wage statements. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("Dunk/Kullar").

2.9. On June 6, 2023, the Parties participated in a full-day mediation before Tripper Ortman which resulted in a mediator's proposal that was accepted by Plaintiff and Defendant.

2.10. The Court has not yet ruled on class certification.

2.11. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, OVIS promises to pay Eight Hundred Thousand Dollars (\$800,000.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage

Portions of the Individual Class Payments. OVIS has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to OVIS.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1 To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$5,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). OVIS will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed \$5,000. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount which is currently estimated to be Two Hundred Sixty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Six Cents (\$266,666.66) and a Class Counsel Litigation Expenses Payment of not more than \$30,000. OVIS will not oppose requests for these payments provided that they do not exceed these amounts, and as to the Class Counsel Litigation Expenses Payment, the amount is

supported by documents and evidence submitted by Class Counsel. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds OVIS harmless, and indemnifies OVIS, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3 To the Administrator: An Administrator Expenses Payment estimated to be \$23,350.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$23,350.00 the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1 Tax Allocation of Individual Class Payments. One-third of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form, which

shall be issued by the Administrator. The remaining two-thirds of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non- Wage Portion").^V The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Class Workweeks & Escalator Provision. Based on a review of its records to date, OVIS estimates as of July 1, 2023, there are 190,108 workweeks in the Class Period. If the workweeks as of that date are more than 10% of this number, then at its option Defendant may elect to either (a) end the Class Period on the date the number of workweeks reaches 209,119 (110% of the estimated workweeks through July 1, 2023) provided that the Class Period shall not extend past August 1, 2023, or (b) pay an increased pro rata amount for each 1% over 10%, so that if the additional workweeks are 11% Defendant will pay an additional 1%, if the additional workweeks are 12% Defendant will pay an additional 2%.

4.2 Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, OVIS will simultaneously deliver the Class Data and the Aggrieved Employee Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data and the Aggrieved Employee Data in confidence, use the Class Data and the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to

Administrator employees who need access to the Class Data and/or the Aggrieved Employee Data to effect and perform under this Agreement. OVIS has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data and/or the Aggrieved Employee Data omitted class member identifying information and to provide corrected or updated Class Data and/or the Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which OVIS must send the Class Data and the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data and/or the Aggrieved Employee Data. The Parties agree that as to the period February 21, 2017 to May 1, 2017, OVIS shall provide a good faith estimate of the number of Class Period Workweeks by using the Class Member Data for the period May 1, 2017 to June 21, 2017 and extrapolating that Class Member Data to the period February 21, 2017 to May 1, 2017.

4.3 Funding of Gross Settlement Amount. OVIS shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay OVIS' share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

4.4 Payments from the Gross Settlement Amount. Within 14 days after OVIS funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, the Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede the mailing of all Individual Class Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual

Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

- 4.4.2. The Administrator must conduct a Class Member Address Search for all Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Class Payment and/or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.4.4. Neither the payment of Individual Class Payments nor the Individual PAGA Payments shall not obligate OVIS to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS.

Effective on the date when OVIS fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Third Amended Complaint. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or the released party.

5.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (any and all claims, costs, expenses, attorney's fees, damages, actions or causes of action that relate to or are derived from the claims alleged in the Third Amended Complaint, including any alleged failure to pay all wages due (including vacation wages and overtime wages), claims regarding time-rounding, failure to pay for all hours worked (including off-the clock work), failure to provide meal and rest

periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, failure to timely pay wages and final wages, failure to reimburse employees for business expenses, failure to furnish accurate wage statements including claims derivative of and/or related to these claims. This release shall include all claims and theories arising under the California Labor Code, wage orders, and applicable regulations, including Labor Code Sections 201, 202, 203, 204, 226, 226.7, 227, 510, 1197.1, all claims and theories arising under Labor Code Section 2802 as well as claims under Business and Professions Code section 17200 et seq. and/or Labor Code Section 2698 et seq. based on alleged violations of the above Labor Code provisions, as alleged in the lawsuits. The release shall run through August 1, 2023. Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3. Aggrieved Employees PAGA Release: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Third Amended Complaint and the PAGA Notice.

6. MOTION FOR PRELIMINARY APPROVAL.

The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1. OVIS's Declaration in Support of Preliminary Approval. Within thirty (30) days of the full execution of this Agreement, OVIS will prepare and deliver to Class Counsel a signed Declaration from OVIS and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In its Declaration, Defense Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar*; (ii) a draft proposed Order Granting Preliminary Approval; (iii) a draft proposed Class Notice; (iv) a signed declaration from Class Counsel documenting the nature and amount of all Class Counsel Litigation Expenses; (v) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (vi) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; and (vii) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members.

6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting

in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected ILYM Group to serve as the Administrator and verified that, as a condition of appointment, ILYM Group agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities, including but not limited to IRS Forms 1099 and W-2.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4. Notice to Class Members.

7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members and Workweeks in the Class Data.

7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment payable to the Class Member, and the number of Workweeks used to calculate these amounts. Before mailing Class

Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

- 7.4.3. Not later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5. If the Administrator, OVIS or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.
- 7.5. Requests for Exclusion (Opt-Outs).
- 7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for

Exclusion not later than forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

- 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement.
- 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have forty-five

(45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks to Defense Counsel and Class Counsel and the Administrator's determination as to the challenges.

7.7. Objections to Settlement.

7.7.1. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than forty-five (45) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

7.7.3. Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks

to be performed or observed by the Administrator contained in this Agreement or otherwise.

- 7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members, including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expense Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing: (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; and (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: (a) Class Notices mailed or re-mailed; (b) Class Notices returned undelivered; (c) Requests for Exclusion (whether valid or invalid) received; (d) objections to settlement received; (e) challenges to Workweeks received and/or resolved; and (f) checks mailed for Individual Class Payments ("Weekly Report"). The Weekly Reports must include the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and

objections received.

7.8.4. Workweek Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5. Administrator's Declaration. Not later than fourteen (14) days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6. Final Report by Settlement Administrator. Within ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. OVIS'S RIGHT TO WITHDRAW.

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5%

of the total of all Class Members, OVIS may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if OVIS withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, OVIS will remain responsible for paying all Settlement Administration Expenses incurred to that point. OVIS must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

9. MOTION FOR FINAL APPROVAL.

Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents for review to Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

9.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

10. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed

amended judgment.

11. ADDITIONAL PROVISIONS.

11.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by OVIS or the Released Parties that any of the allegations in the Operative Complaint have merit or that OVIS or the Released Parties has or have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that OVIS's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, OVIS reserves the right to contest certification of any class for any reason, and OVIS reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest OVIS's defenses. The Settlement, this Agreement and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

11.2. Confidentiality. Prior to Preliminary Approval, Plaintiff, Class Counsel, OVIS and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement, directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, OVIS and Defense

Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any with third party regarding this Agreement or the matters giving rise to this Agreement, except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

11.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits, shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and OVIS, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement, including any amendments to this Agreement.

11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

11.7. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

11.8. No Tax Advice. Neither Plaintiff, Class Counsel, OVIS nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

11.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152 and/or in connection with the mediation of this matter, and all copies and summaries of the Class Data provided to Class Counsel by OVIS in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing

contractual agreement, statute, or rule of court. Not later than ninety (90) days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from OVIS unless, prior to the Court's discharge of the Administrator's obligation, OVIS makes a written request to Class Counsel for the return, rather than the destruction of, Class Data.

11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

11.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

11.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Kiley Grombacher
Bradley/Grombacher LLP
31365 Oak Crest Dr.,
Suite 240
Westlake Village, CA 91361
(805) 270-7100
kgrombacher@bradleygrombacher.com

To OVIS:

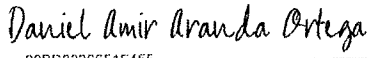
Fred M. Plevin
Quarles & Brady LLP
101 West Broadway, Ninth Floor,
San Diego, CA 92101-8285
619-237-5200
Fred.Plevin@quarles.com

11.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be

deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

11.19. Stay of Litigation. The Parties agree that, upon the execution of this Agreement, the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that, upon the signing of this Agreement, pursuant to CCP section 583.330, the date to bring a case to trial under CCP section 583.310 is extended for the entire period of this settlement process.

Dated: 11/8/2023

DocuSigned by:

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Daniel Aranda (Plaintiff)

Dated:


QUARLES & BRANDY LLP

Fred M. Plevin, Esq.
Attorney for Defendant OVIS LLC

Dated: 1/8/24


OVIS LLC